



RALEIGH PLANNING COMMISSION CERTIFIED RECOMMENDATION

CR# 11957

CASE INFORMATION: TC-6-19 DESIGN ALTERNATES TO UDO ARTICLE 8.3

COMPREHENSIVE PLAN GUIDANCE

Applicable Policy Statements	<p>Policy LU 5.2 Managing Commercial Development Impacts</p> <p>Manage new commercial development using zoning regulations and through the conditional use zoning and development review processes so that it does not result in unreasonable and unexpected traffic, parking, litter, shadow, view obstruction, odor, noise and vibration impacts on surrounding residential areas.</p> <p>Policy T 1.5 Context Sensitive Road Design</p> <p>“Context sensitive” approaches shall be used for new roadways or widening of existing roads to minimize impacts to historic business districts and neighborhoods and sensitive natural areas (particularly in watershed protection, conservation managements and metro park protection areas).</p> <p>Policy T 1.6 Transportation Impacts</p> <p>Identify and address transportation impacts before a development is implemented.</p> <p>Policy T 2.16 Assessing Changes in Road Design</p> <p>Subject all proposed changes to the treatment of existing vehicular right-of-way, such as changes to the number and type of travel lanes, to a study prior to implementation to determine the impacts on the larger network and the level of service of all relevant modes.</p>
Action Items	N/A

SUMMARY OF TEXT CHANGE

The text amendment would replace the option for a design adjustment from the provisions of UDO Article 8.3. (relating to block perimeter, cross-access, driveways and stub streets) with: 1) objective criteria that staff can apply administratively to limit application of certain requirements of Article 8.3; and 2) a new quasi-judicial process and standard for applicants to obtain a design alternate from the requirements of Article 8.3.

SUMMARY OF IMPACTS

The text amendment creates objective criteria that staff can apply administratively to limit application of block perimeter, cross-access, driveway and stub street regulations. The objective criteria are intended to address situations when, among other reasons, a physical obstruction or neighboring use prevents the ability to comply with the requirement. The text amendment also creates subjective criteria for a quasi-judicial design alternate from the requirements of Article 8.3, which align with the intent and purpose of the regulations.

PUBLIC MEETINGS

Submitted	Committee	Planning Commission
11/12/19		11/12/19

PLANNING COMMISSION RECOMMENDATION

If Consistent with Comprehensive Plan Policies

☒ The proposed text amendment is **Consistent** with the relevant policies in the Comprehensive Plan and **Approval** of the proposed text amendment is reasonable and in the public interest.

☐ The proposed text amendment is **Consistent** with the relevant policies in the Comprehensive Plan, but **Denial** of the proposed text amendment is reasonable and in the public interest.

If Inconsistent with Comprehensive Plan Policies

☐ The proposed text amendment is **Inconsistent** with the relevant policies in the Comprehensive Plan but **Approval** of the proposed text amendment is reasonable and in the public interest.

☐ The proposed text amendment is **Inconsistent** with the relevant policies in the Comprehensive Plan and **Denial** of the proposed text amendment is reasonable and in the public interest.

Reasonableness and Public Interest	This text change is consistent with the relevant policies within the Comprehensive Plan, and is reasonable and in the public interest.
Recommendation	Approval
Motion and Vote	<p>Motion: Novak</p> <p>Second: Hicks</p> <p>Approval: Geary, Hicks, Jeffreys, Lampman, Mann, Novak, Tomasulo, Winters</p>

ATTACHMENTS

1. Staff Report
2. Draft Ordinance

This document is a true and accurate statement of the findings and recommendations of the Planning Commission. Approval of this document incorporates all of the findings of the attached Staff Report and Comprehensive Plan Analysis.

Planning Director

Planning Commission Chair

Date

Staff Coordinator: Travis Crane Travis.Crane@raleighnc.gov



ZONING STAFF REPORT – TC-6-19 DESIGN ALTERNATES TO UDO ARTICLE 8.3

TC-6-19 DESIGN ALTERNATES TO UDO ARTICLE 8.3

Section Reference	8.3, 10.1, 10.2
Basic Information	The text amendment would replace the option for a design adjustment from the provisions of UDO Article 8.3. (relating to block perimeter, cross-access, driveways and stub streets) with: 1) objective criteria that staff can apply administratively to limit application of certain requirements of Article 8.3; and 2) a new quasi-judicial process and standard for applicants to obtain a design alternate from the requirements of Article 8.3.
<i>Planning Commission Recommendation Deadline</i>	January 28, 2020

COMPREHENSIVE PLAN GUIDANCE

Applicable Policy Statements	<p>Policy LU 5.2 Managing Commercial Development Impacts</p> <p>Manage new commercial development using zoning regulations and through the conditional use zoning and development review processes so that it does not result in unreasonable and unexpected traffic, parking, litter, shadow, view obstruction, odor, noise and vibration impacts on surrounding residential areas.</p> <p>Policy T 1.5 Context Sensitive Road Design</p> <p>“Context sensitive” approaches shall be used for new roadways or widening of existing roads to minimize impacts to historic business districts and neighborhoods and sensitive natural areas (particularly in watershed protection, conservation managements and metro park protection areas).</p>
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	Policy T 1.6 Transportation Impacts Identify and address transportation impacts before a development is implemented.
	Policy T 2.16 Assessing Changes in Road Design Subject all proposed changes to the treatment of existing vehicular right-of-way, such as changes to the number and type of travel lanes, to a study prior to implementation to determine the impacts on the larger network and the level of service of all relevant modes.
Action Items	N/A

CONTACT INFORMATION

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HISTORY AND OVERVIEW

Earlier this year, Council adopted a text amendment (TC-2-19) to provide for the Board of Adjustment to hear and decide requests for design adjustments from UDO Article 8.3 (block perimeter, cross-access, driveways and stub streets); Article 8.4 (new streets); and Article 8.5 (existing streets).

Prior to TC-2-19, the UDO provided for City staff to review and decide design adjustment requests. However, the UDO's design adjustment standards required staff to exercise a level of discretion that was more subjective than objective. Under state law, staff makes routine, nondiscretionary decisions regarding the application of the UDO. Decisions regarding subjective standards are quasi-judicial in nature and are made by a quasi-judicial body. TC-2-19 maintained the review standards for Design Adjustments, but provided for the Board of Adjustment, instead of staff, to hear and decide these requests in a quasi-judicial proceeding. TC-2-19 was a "quick fix" to allow time to develop a long-term solution. Over the past several months, a staff working group has met regularly and has developed a proposed long-term solution to address design adjustments from Article 8.3 (TC-6-19). A similar text amendment to Articles 8.4 and 8.5 is in the drafting phase and will likely be introduced in the coming months.

TC-6-19 creates objective standards for staff to apply administratively, to limit application of block perimeter, cross-access and stub street requirements. The objective criteria are intended to address situations where compliance with the standards is not possible or practical, due to physical obstructions, adjacent uses, or other similar restraints. The objective criteria were

reviewed by the development community (DSAC) at two meetings. DSAC provided comments, which City staff reviewed and incorporated, as appropriate.

TC-6-19 also proposes to replace the option for a design adjustment from the provisions of Article 8.3, with a quasi-judicial process called a “design alternate.” As proposed, a design alternate may be granted by a quasi-judicial body, upon a finding that the applicant has met a list of subjective standards. The subjective standards are intended to allow relief in situations that cannot be addressed with objective criteria, when an alternate is reasonable and consistent with the intent of the regulations. The creation of these objective standards limiting application of Sections 8.3.2., 8.3.4. and 8.3.5. will substantially reduce the number of cases currently heard by the Board of Adjustment relating to Article 8.3. TC-6-19 proposes that the Board of Adjustment hear and decide design alternate requests. Doing so allows design adjustments from Article 8.4 and 8.5, as well as design alternates from Article 8.3, to be heard by the same body, thereby saving the City and applicants time and resources. If and when the design adjustment process for Articles 8.4 and 8.5 is similarly amended in the future, the City could provide for the Board of Adjustment, or another quasi-judicial body, to hear all design alternate or adjustment requests.

PURPOSE AND NEED

The proposed text amendment will allow staff to administratively limit application of the block perimeter, cross-access, driveway and stub street regulations, when physical and other obstructions, which can be identified using objective criteria, exist. This is anticipated to greatly reduce the number of Article 8.3 design adjustment requests. In circumstances when an alternate may be appropriate, but the situation cannot be identified using objective criteria, the applicant may seek relief via a design alternate, by meeting subjective standards intended to reflect the intent and purpose of the Article 8.3 regulations.

Since the adoption of TC-2-19, the Board of Adjustment has seen an increase in requests for Design Adjustments. During the month of October, the Board’s agenda contained 18 separate cases where the request was for a variance or design adjustment to Chapter 8. Many of these cases contained multiple requests; the time necessary to conduct a rigorous quasi-judicial public hearing on each request is lengthy. Many of these cases are continued to the November Board of Adjustment agenda, where 14 new cases have been introduced. Staff believes that if TC-6-19 is adopted, many of these requests could be addressed by the administrative application of the standards.

ALTERNATIVES CONSIDERED

Pursuant to State law, quasi-judicial UDO decisions may be made by either: the Board of Adjustment, the Planning Commission or the City Council. This proposed ordinance proposes for the Board of Adjustment to hear design alternates, which would allow the same body to hear requests for both design adjustments and design alternates. However, another

quasi-judicial body may be authorized to hear these requests, either now or in the future with a text amendment to Articles 8.4 and 8.5.

SCOPING IMPACTS

The text amendment would save applicants time and money by allowing staff to administratively limit application of the block perimeter, cross-access, driveway and stub street requirements in certain common situations, instead of requiring applicants to seek and obtain a design adjustment from the Board of Adjustment. This would also save the City the time and costs associated with reviewing and preparing for numerous Board of Adjustment requests.

ORDINANCE NO. (xxx-2019)

TC-6-19

Planning Commission November 12, 2019

AN ORDINANCE TO MODIFY THE REVIEW STANDARDS FOR CERTAIN DESIGN ADJUSTMENTS TO BLOCK PERIMETER, SUBDIVISION ACCESS AND SITE ACCESS.

WHEREAS, The city of Raleigh Unified Development Ordinance contains standards for block perimeter, site access, subdivision access and drieways; and

WHEREAS, The Unified Development Ordinance contains development standards that are applied during subdivision and site plan review; and

WHEREAS, The standards applied during administrative review must be objective in nature and equitably applied; and

WHEREAS, The application of subjective standards must be reviewed during a quasi-judicial public hearing;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:

Section 1. Section 8.3.2.A of the Part 10 Raleigh Unified Development Ordinance, Block Perimeters, is hereby amended by adding the language shown in underline and deleting the language shown in strikethrough:

A. Block Perimeters

1. Applicability

- a. Except as set forth in Section 8.3.2.A.1.b. below, the block perimeter standards apply to preliminary subdivision plans, final plats and site plans submitted in accordance with Sec. 10.2.5. and Sec. 10.2.8, unless. These standards can be modified by a zoning condition contained in an adopted conditional use zoning ordinance, or a design alternate authorized in this UDO.
- b. Except where a street connection traversing the subject property is shown on the Raleigh Street Plan or an adopted Area Plan, compliance with the maximum block perimeter standards, including maximum dead-end street length, shall not be required when one or more of the following conditions are met:
 - i. The site to be developed is below the minimum applicable site area established in the table found in Sec. 8.3.2.A.2.b.
 - ii. The resulting street connection, if completed, would neither reduce the perimeter of the oversized block by at least 20 percent nor result in conforming block perimeters.
 - iii. The resulting street connection, if completed, would result in a new block perimeter less than 50 percent of the maximum block perimeter length.
 - iv. The new street or street stub right-of-way, including utility placement easement, would consume more than 15 percent of either the area of the impacted adjacent property or the property to be developed.

- v. A sealed traffic study is submitted substantiating that the street connection would lead to an intersection level of service within a residential zoned area of Level of Service (LOS) E or F, exclusive of intersections with major streets as designated on the City's adopted street plan.
- vi. The creation (on the property to be developed) or continuation (on an adjacent property) of any new street or street stub would be obstructed by any of the following:
 - a. existing improvements where the value of such improvements is more than the land value of the parcel on which the improvements are located;
 - b. railroad, or controlled access highway;
 - c. watercourse that has one (1) square mile of drainage area or more; or
 - d. previously established tree conservation area, open space or public park.
- vii. Blocks recorded on or before September 1, 2013, whose block perimeter length does not exceed 150% of the maximum established in Sec. 8.3.2.A.2.b.
- viii. North Carolina Department of Transportation denies a driveway permit necessary to make the street connection.
- ix. The property to be developed or the adjacent property to which any new street or stub street would be continued contains one or more of the following land uses: historic landmark, cemetery, landfill, hospital, school (public or private (k-12)), college, community college, university, places of worship, police station, fire station, EMS station, prison or any residential use in an Attached or Detached building type on lots no larger than 2 acres.

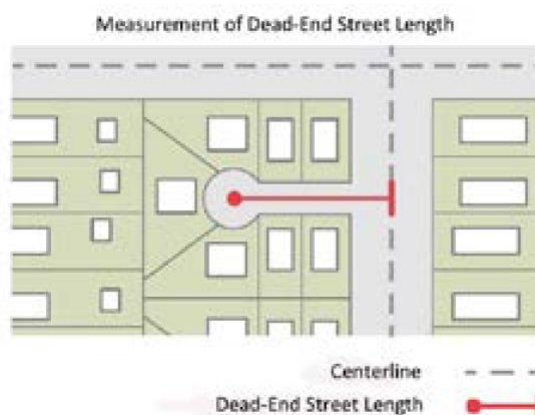
2. Block Standards

- a. Residential blocks must have sufficient width to provide for 2 tiers of residential lots, except where single tier lots are required to accommodate single-loaded streets where across from a public park or open space, to allow for unusual topographical conditions or when adjacent to the outer perimeter of a subdivision.
- b. The following table establishes the maximum block perimeter and maximum length for a dead-end street by zoning district. In the event that a single block contains more than 1 zoning district, the least ~~most~~ restrictive requirement applies.

	Block Perimeter (max)	Dead-End Street (max)	<u>Min. Site Area Applicable (acres)</u>
R-1, R-2, R-4, R-6: By Average Lot Size on Block			
40,000+ sf	8,000'	1,000'	<u>34</u>
20,000 -39,000 sf	6,000'	750'	<u>19</u>
10-000 -19,999 sf	5,000'	600'	<u>13</u>
6,000 - 9,999 sf	4,500'	550'	<u>11</u>
up to 5,999 sf	3,000'	400'	<u>5</u>
R-10: By District			
R-10	2,500'	300'	<u>3</u>
Mixed Use Districts			
DX-, -TOD	2,000'	Not allowed	<u>2</u>

RX-, NX-, CX-, OX-: up to 4 stories	3,000'	400'	<u>5</u>
RX-, NX-, CX-, OX-: 5+ stories	2,500'	300'	<u>3</u>
OP-, IX-	4,000'	500'	<u>9</u>
Special Districts			
CM, AP	n/a	n/a	<u>n/a</u>
IH	6,000' n/a	400' n/a	<u>n/a</u>
MH	3,000'	400'	<u>5</u>
	4,000' or based on unless established in master plan	400' or based on 500' unless established in master plan	
CMP, PD			<u>9</u>

[no change to graphic]



Section 2. Section 8.3.2.B. of the Part 10 Raleigh Unified Development Ordinance, Block Measurement, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

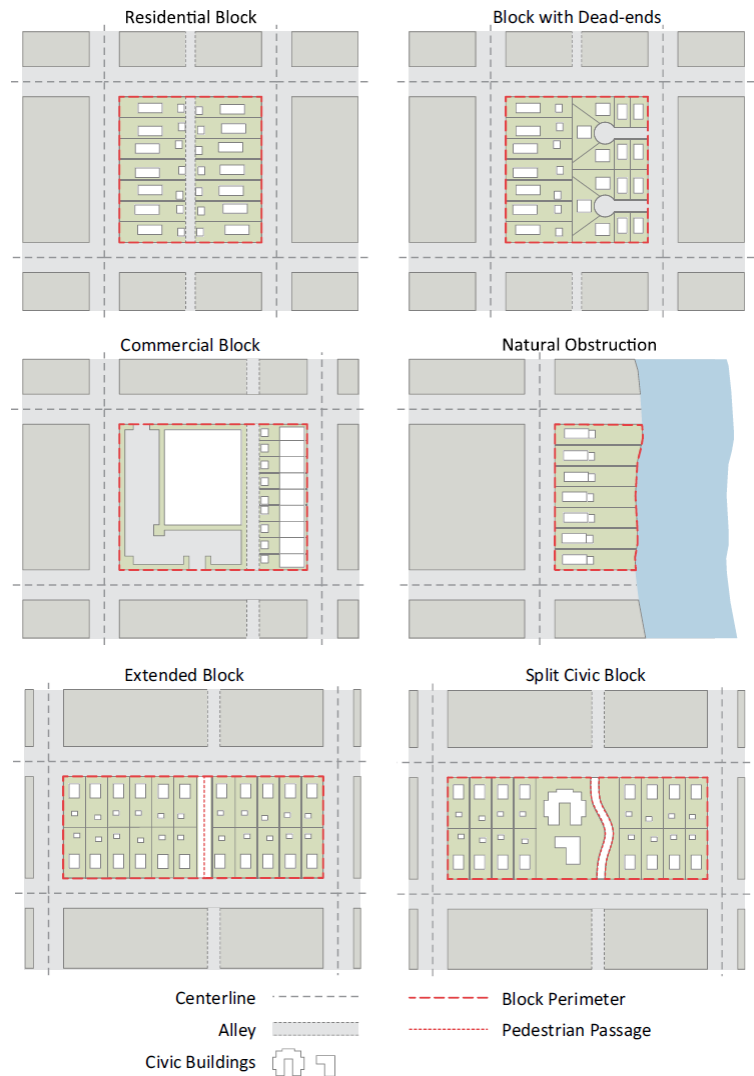
B. Block Measurement

1. A block is bounded by a public right-of-way (not including an alley). All public rights-of-way proposed as part of a development must be improved with a street.
2. Block perimeter is measured along the edge of the property adjoining the public right-of-way, ~~except for the measurement of~~ Dead-end streets, ~~which are measured from intersecting centerlines.~~
3. The maximum block perimeter ~~shall may~~ be permitted to extended by 50% where the block includes a pedestrian passage (see Sec. 8.4.8.) or an alley (Sec. 8.4.7.) that connects the two 2 streets on opposing block faces. ~~Pedestrian including pedestrian~~ passages and alleys ~~may that~~ connect dead-end streets.
4. A block ~~may shall be permitted to be~~ broken by a civic building or open lot, provided the lot is at least 50 feet wide and deep and provides a pedestrian passage meeting the requirements of Sec. 8.4.8. that directly connects the two 2 streets on each block face.

5. Within a single phase of any subdivision or development, individual block perimeters ~~may~~ shall be permitted to exceed the maximum by 25% provided that the average of all block perimeters in the phase does not exceed the maximum.

6. ~~7.~~ Where the block pattern is interrupted by public parkland, including greenways, that is open and accessible to the public, pedestrian access points shall be provided with a minimum spacing equal to $\frac{1}{2}$ of the maximum block perimeter.

[no change to graphic]



Section 3. Section 8.3.4 of the Part 10 Raleigh Unified Development Ordinance, Subdivision Access, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

Sec. 8.3.4. Subdivision Access

A. Open Access

Subdivisions must provide roadways that remain permanently open to the public and provide community-wide access as part of an overall connected street network.

B. Connectivity Required

Proposed streets must be interconnected and must connect with adjacent streets external to the subdivision in order to provide multiple routes for pedestrian and vehicle trips from, to and within the subdivision.

C. Stub Streets

1. The following stub street standards listed below shall apply, unless:

- a. The standards described in Sec. 8.3.2.A.1.b are applicable, except for subsections b.i and b.vii;
- b. An adopted conditional use zoning ordinance contains a zoning condition as allowed in Sec. 10.2.4.E.2.c; or
- c. A design alternate has been granted.

~~Unless modified by a zoning condition contained in an adopted conditional use zoning ordinance the regulations of subsection C shall apply.~~

~~2.1.~~Where a development adjoins unsubdivided land, stub streets within the new subdivision shall be extended to the meet maximum block perimeter standards of Sec. 8.3.2.

~~3.2.~~The stub street must be extended to the boundary of the abutting property to the point where the connection to the anticipated street is expected.

~~4.3.~~Stub streets must be located so that the portion of the block perimeter located on the subject property does not exceed 50% of the applicable block perimeter maximum.

~~5.4.~~If a stub street exists on an abutting property, the street system of any new ~~subdivision~~ development plan must connect to the stub street to form a through street.

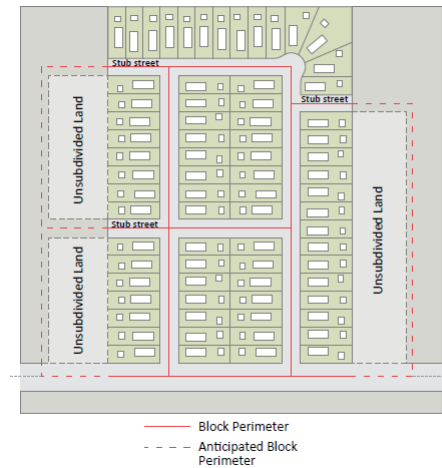
~~6.5.~~When the entirety of a creek crossing is in the subdivision, the crossing must be in a single phase in its entirety.

~~7.6.~~When stubbing to the edge of the site, the stub street will be built to the furthest point possible without ~~NCDEQ~~ NCDWQ approval and a fee in lieu of construction is paid for the remainder. Any right-of-way and slope easements needed to build the connection shall be dedicated.

~~8.7.~~Where a stub street is provided, a barricade using a design approved by the Development Services Director must be constructed at the end of the stub street, pending the extension

of the street into abutting property. A sign noting the future street extension shall be posted at the applicant's expense.

[no change to graphic]



Section 4. Section 8.3.5.A of the Part 10 Raleigh Unified Development Ordinance, General Access Requirements, is hereby amended by removing the following language shown in strikethrough:

A. General Access Requirements

1. All existing and proposed development must provide ~~a satisfactory means of~~ vehicular, pedestrian and bicycle ingress and egress to and from a street or an abutting site.
2. All on-site parking areas must have vehicular access from a street, an alley, a drive aisle or a cross-access easement.
3. All on-site parking areas must be designed to allow vehicles to enter and exit the parking area in a forward motion, unless otherwise approved by the Development Services Director. An improved alley may be used as maneuvering space for access to on-site parking areas.

Section 5. Section 8.3.5.B of the Part 10 Raleigh Unified Development Ordinance, Pedestrian Access, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

B. Pedestrian Access

1. All existing and proposed development must provide ~~safe, direct and convenient~~ ADA compliant pedestrian access connecting main entrances of buildings, establishments or uses on a site that allows for public access, with all other ~~such~~ public entrances and with available access points including parking, streets, sidewalks and transit stops with the exception of the following uses which are exempt:
 - a. Single- or two-unit living;

- b. Multi-unit living with 6 or fewer dwelling units;
 - c. Agricultural use;
 - d. Parks, open space and greenways;
 - e. Cemetery;
 - f. Telecommunication tower;
 - g. Off-premise sign;
 - h. Minor utilities; ~~and~~
 - i. Prisons; and
 - j. Other uses not containing a principal building on the premise (with the exception of a parking facility).
2. Pedestrian access shall consist of an accessible, easily-discernible and ADA-compliant walkway or multi-use path with a minimum width of 5 feet.
 3. The pedestrian access surface located on private property shall be constructed of concrete, asphalt or other ADA approved fixed, firm and nonslip material as approved by the Development Services Director.
 4. Pedestrian access routes between buildings and public rights-of-way shall be physically separated from vehicular surface areas, except where required to cross a drive aisle; such crossings shall be perpendicular wherever practicable.
 5. Site plans containing multiple principal buildings shall submit a phasing plan. The phasing plan shall include all necessary elements to address phasing of walkway construction for the existing principal buildings and uses on the site as new buildings and building expansion occurs in the future.

Section 6. Section 8.3.5.C of the Part 10 Raleigh Unified Development Ordinance, Driveways, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

C. Driveways

1. All Driveways

- a. All driveway design and construction must comply with the Raleigh Street Design Manual, or the Fire Code when conflict exists.

- b. Driveway dimensions measured at the street right-of-way shall be in accordance with the following table:

[insert existing table without edits]

	Width (min)	Width (max)	Radius (max)
Residential on a local street, up to 6 off-street parking spaces	10'	18'	10'
Residential 7+ off-street parking spaces (one way)	12'	16'	10'
Residential 7+ off-street parking spaces (two-way)	20'	24'	10'
Mixed Use/Commercial (one-way)	12'	18'	10'
Mixed Use/Commercial (two-way)	20'	32'	15'
Industrial/Service	30'	40'	30'

- c. ~~The Development Services Director may require wider driveways where unusual traffic, grade or site conditions exist~~ Wider driveways shall be allowed where:
- required by the turning radii of vehicles accessing the site or to accommodate existing topography as certified by a licensed design or engineering professional; or
 - a traffic report certified by a licensed design or engineering professional indicates the need for a wider driveway.
- d. Nothing in this section shall prevent all site access to any property.

2. Driveways for Residential Uses

Unless modified by a zoning condition contained in an adopted conditional use zoning ordinance or a design alternate authorized in this UDO, the regulations in subsection C.2 shall apply.

- When an improved alley with a width of at least 20 feet is provided, all vehicular access shall take place from the alley. Access may be taken from the side street on corner lots.
- Except for townhouse lots, all lots 40 feet or less in width platted after the effective date of this UDO are required to take vehicular access from an alley.
- No residential lot may have more than 2 driveways on the same street. Multiple driveways that service 1 lot may be no closer than 40 feet to each other.
- Non-alley loaded driveways may intersect a street no closer than 20 feet from the intersection of 2 street rights-of-way.
- Driveways must be located a minimum of 3.5 feet from the side lot line. However, a driveway may be located on the lot line closer than 3.5 feet if it is shared with an adjacent lot.

- f. Parking and driveway areas shall not constitute more than 40% of the area between the front building line and the front property line.

3. Driveways for Mixed Use and Non-Residential Uses

Unless modified by a zoning condition contained in an adopted conditional use zoning ordinance or a design alternate authorized in this UDO, the regulations in subsection C.3 shall apply.

- a. If on-site parking areas can be accessed from an improved alley with a right-of-way of at least 24 feet in width, access from the alley is required and new curb cuts along the public right-of-way are not allowed.
- b. Driveways are allowed based on the property frontage of any street. Additional driveways require approval from the Development Services Director.
- c. Driveways accessing up to 80-foot wide street rights-of-way must be spaced 200 feet apart centerline to centerline and driveways accessing more than an 80-foot wide street right-of-way must be spaced 300 feet apart centerline to centerline.
- d. A driveway serving any non-residential use or multi-unit living shall not be permitted to access neighborhood yield or neighborhood local streets unless the proposed access point is the lesser of 300' from an avenue, boulevard or parkway, or the intersection of another public street.
- e. Offers of cross-access shall be prohibited where a proposed nonresidential use or multi-unit living may potentially obtain access from a neighborhood or residential street, unless the resulting access meets the provisions of subsection d above.
- f. Driveways may intersect a street no closer than 50 feet from the intersection of two ~~2~~ street rights-of-way, not including an alley.
- ~~g. Nothing in this section shall prevent all site access to any property.~~

Section 7. Section 8.3.5.D of the Part 10 Raleigh Unified Development Ordinance, Cross Access, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

D. Cross-Access

All lots abutting a street other than a local street shall comply with the following standards:

- 1. Internal vehicular circulation areas shall be designed and installed to allow for cross-access between abutting lots.

2. When an abutting owner refuses in writing to allow construction of the internal vehicular circulation on their property, a stub for future cross-access shall be provided as close as possible to the common property line.
- ~~3. When cross-access is waived by the Development Services Director in accordance with Sec. 8.3.6., bicycle and pedestrian connections shall be provided between abutting properties except where there is a perennial wet stream crossing greater than 15 feet in width that interferes with such access.~~
3. 4. Rights of vehicular and pedestrian access shall be granted to all abutting properties contemporaneously with the recording of the final subdivision plat or prior to issuance of a building permit for an approved site plan, whichever event first occurs on the property after September 1, 2013. This right of cross-access shall be recorded by plat in the register of deeds office in the county where the property is located. By the end of the next business day following the recordation, the applicant shall provide to Development Services evidence of recordation of the cross-access agreement. No building permit will be issued until evidence of recordation of the cross-access agreement is provided to the City.
4. ~~5.~~ The content of the cross-access agreement required by the City shall be as follows:
 - a. Pedestrian and vehicular access is granted to all properties on the same block face as the property owner establishing the cross-access. The owner may make the pedestrian and vehicular access contingent upon the granting of reciprocal vehicular and pedestrian access right to the granting property.
 - b. The location of the pedestrian and vehicular access is described as over all sidewalks, vehicular drives and driveways located on the property which are designated to be used by the public or by specific metes and bounds.
 - c. The beneficiaries granted access rights include the lot owners, their successors, heirs and assigns, tenants and subtenants, lenders, employees, customers and guests.
 - d. Each lot owner is required to maintain the vehicular and pedestrian access areas on their lot. Maintenance shall include, but not be limited to repair, fixing potholes and repaving.
 - e. All lot owners and tenants granted vehicular and pedestrian access rights shall have the right together with their contractors, but not obligation, to maintain all portions of pedestrian vehicular and access ways. If such owners, tenants and their contractors engage in any maintenance activities off their lot, they shall have the right of contribution to be reimbursed for their actual expenses from the defaulting lot owner, provided at least 30 days prior written notice is first provided to the defaulting lot owner.
 - f. Temporary construction easement is granted to the abutting lot owner and tenants and their contractors to enter the adjoining property to install connecting internal drives not previously extended to the property line.

- g. A notice provision explaining how and where to send written notice.
 - h. A provision prohibiting the erection of fences walls and other obstructions that prevent the use of vehicular and pedestrian access ways.
 - i. A statement that the cross-access agreement runs with the land and it is binding on all successors, heirs and assigns and that the easement rights are perpetual.
 - j. A statement that the cross-access agreement is a requirement of the Raleigh City Code and that it may not be terminated or amended without the written consent of the ~~Development Services~~ Transportation Director and such amendments and terminations that are in violation of the Raleigh City Code are void ab initio.
 - k. The cross-access agreement shall be signed by all of owners of the granting property.
 - l. All lenders and their trustees with interests in the granting property shall subordinate their security interests to the cross-access agreement.
 - m. The cross-access agreement must be certified by an attorney licensed to practice law in the State of North Carolina, confirming compliance with all of all provisions of Sec 8.3.5.D.
5. Cross-access requirements described in Sec. 8.3.5.D. shall not apply when one or more of the following conditions are met:
- a. The abutting property (to which a driveway is to be stubbed) is in a residential zoning district (except for R-10) or occupied by an Attached, Detached or Townhouse building type.
 - b. The creation (on the property to be developed) or continuation (on an adjacent property) of any cross access driveway or driveway stub would be obstructed by any of the following:
 - i. existing improvements where the value of such improvements is more than the land value of the parcel on which the improvements are located;
 - ii. railroad, or controlled access highway;
 - iii. steep slopes in excess of 25% within 10 feet of the property line,
 - iv. watercourse that has one (1) square mile of drainage area or more; or
 - v. previously established tree conservation area, open space or public park.
 - c. The property to be developed or the adjacent property to which any cross access driveway or driveway stub would be continued contains one or more of the following land uses: historic landmark, cemetery, landfill, hospital, school (public or private (k-12)), college, community college, university, places of worship, police station, fire station, EMS station or prison.

Section 8. Section 8.3.6 of the Part 10 Raleigh Unified Development Ordinance, Design Adjustments Relating to Blocks, Lots and Access, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

Sec. 8.3.6. Design ~~Adjustments~~ Alternates Relating to Blocks, Lots and Access (Article 8.3)

A. The Board of Adjustment shall conduct a duly noticed, quasi-judicial public hearing, in accordance with Sec. 10.2.18, and approve a design alternate ~~design adjustment~~ from the provisions of Sec. 8.3.2, 8.3.4 and 8.3.5 relating to blocks and access, upon a showing of all of the findings set forth below.

1. The approved design alternate ~~adjustment~~ meets the intent of this Article;

~~2. The approved design adjustment conforms with the Comprehensive Plan and adopted City plans;~~

~~2. 3.~~ The approved design alternate ~~adjustment~~ does not increase congestion or compromise safety;

~~3. 4.~~ The approved design alternate ~~adjustment~~ does not conflict with an approved or built roadway construction project adjacent to or in the vicinity of the site (no design alternate ~~adjustment~~ shall be approved when the City Council has authorized a roadway project in the vicinity, where the roadway design has not yet been finalized); and ~~The approved adjustment does not create any lots without direct street frontage;~~

~~4. 5.~~ The design adjustment is deemed reasonable due to one or more of the following:

a. Given the existing physical environment, compliance is not physically feasible;

b. Compliance would not meaningfully improve connectivity;

c. Compliance is not compatible with adjacent use[s]; or

d. The burden of compliance is not reasonable in light of the size of the site or intensity of the development.

~~1. Topographic changes are too steep;~~

~~2. The presence of existing buildings, stream and other natural features;~~

~~3. Site layout of developed properties;~~

~~4. Adjoining uses or their vehicles are incompatible;~~

~~5. Strict compliance would pose a safety hazard; or~~

~~6. Does not conflict with an approved built roadway construction project adjacent to or in the vicinity of the site.~~

~~B. If a design adjustment is granted from the requirement to provide cross access, then bicycle and pedestrian connections shall be provided between abutting properties, except where there is a perennial wet stream crossing of greater than 15 feet in width that interferes with such access.~~

~~C. No design adjustment shall be approved when the City Council has authorized a roadway project in the vicinity, where the roadway design has not yet been finalized.~~

Section 9. Section 10.1.3.B of the Part 10 Raleigh Unified Development Ordinance, Specific Approval Authority, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

B. Specific Approval Authority

The Board of Adjustment is responsible for final action regarding:

1. Special use permits;
2. Variances;
3. Appeals from administrative decisions;
4. Appeals in the nature of certiorari of Historic Development Commission decisions granting or denying certificates of appropriateness; ~~and~~
5. Design adjustments; and
6. Design alternates

Section 10. Section 10.1.8 of the Part 10 Raleigh Unified Development Ordinance, Summary of Review Authority, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

Add a new row titled “Design Alternate”. In the column titled “City Official” show as “R”. In the column titled “Board of Adjustment”, show as “D-QH”.

Section 11. Section 10.2.18 of the Part 10 Raleigh Unified Development Ordinance, Design Adjustment, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

Sec. 10.2.18. Design Adjustments and Design Alternates

A. Applicability

The Board of Adjustment has the authority to approve a request for design alternates to Article 8.3 and design adjustments to Articles ~~8.3~~, 8.4 and 8.5 set forth in this UDO. All design alternates and design adjustments shall be reviewed in accordance with the provisions of the UDO, including this section and the applicable design adjustment findings. Any design adjustment or design alternate approved pursuant to this section shall be incorporated into its corresponding site plan or subdivision approval, and shall expire, if at all, upon expiration of such corresponding site plan or subdivision approval.

B. Application Requirements

1. An application for a design adjustment or a design alternate shall be submitted in accordance with *Sec. 10.2.1.B*. A request for ~~a~~ a design adjustment or a design alternate must be submitted at the time of application for a preliminary subdivision plan, plot plan or site plan or at such time the design adjustment or design alternate is proposed in conjunction with the review of infrastructure construction plans, a plot plan or site plan.
2. An application for a design adjustment or a design alternate must be signed and notarized by the property owner in order to initiate a request ~~for an adjustment~~.
3. The applicant shall submit pertinent material necessary for review; in addition to the submittal material required for a subdivision, plot plan or site plan. This may include detailed landscape plans, roadway cross-sections, site or subdivision layout or other project-specific information.

C. Board of Adjustment Action

1. The Board of Adjustment shall consider the applicable design adjustment findings and the applicable design alternate findings for the request and either approve, approve with conditions or deny the request.
2. Following notice as required in Sec. 10.1.8. and Sec. 10.2.1.C, the Board of Adjustment shall hold a quasi-judicial hearing as set forth in Sec. 10.2.1.D.1.

Section 12. All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict.

Section 13. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

Section 14. This text change has been reviewed by the Raleigh City Planning Commission.

Section 15. This ordinance has been adopted following a duly advertised public hearing of the Raleigh City Council.

Section 16. This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty-dollar limit in N.C.G.S. §14-4(a) or similar limitations.

Section 17. This ordinance is effective 5 days after adoption.

ADOPTED:

EFFECTIVE:

DISTRIBUTION: Planning – Bowers, Crane, Holland
Development Services – Bailey Taylor, Rametta, King
City Attorney – Tatum, Hofmann, Hargrove-Bailey
Department Heads
Transcription Svcs – Taylor